

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

AARON EARL BLANCH

PLAINTIFF

NO. 4:17CV00149-JMV

**NANCY BERRYHILL,
COMMISSIONER OF SOCIAL SECURITY**

DEFENDANT

FINAL JUDGMENT

This cause is before the court on Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying a claim for supplemental security income benefits. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law, and having heard oral argument, finds as follows:

Consistent with the court's ruling from the bench during a hearing held July 26, 2018, the court finds the ALJ's residual functional capacity ("RFC") assessment is not supported by substantial evidence in the record. Specifically, the ALJ rejected certain medical source opinions of the claimant's treating physician, Dr. Bruce Newell, in favor of the opinions of state agency medical non-examiners who did not have the benefit of nearly two years' worth of medical evidence. Indeed, Dr. Newell's treatment records consistently indicate the claimant needed a cane to ambulate and experienced painful motion of the left hip. These findings would appear to support Dr. Newell's medical source limitations on standing, stooping, bending, and

squatting. Ultimately, there is no credible medical opinion in the record that contradicts Dr. Newell's opinions.

On remand, the ALJ must reconsider the claimant's physical RFC. The ALJ must *either* recontact Dr. Newell and obtain a new medical source statement along with any needed explanation of Dr. Newell's prior medical source statements *or* order a physical consultative examination and provide the consultative examiner with copies of all the relevant medical evidence in the file. In either case, the ALJ must request a function-by-function assessment of physical RFC from the physician. To the extent the ALJ needs clarification of or further explanation for any medical opinion, the ALJ must request it from the appropriate physician prior to rendering a new decision. Ultimately, the ALJ must make a new RFC determination that is supported by substantial evidence in the record. Further, the ALJ must provide an explanation, supported by substantial evidence in the record, for rejecting any medical source opinion. And, to the extent necessary, the ALJ must obtain supplemental vocational expert evidence on the issue of whether there is any work the claimant can perform, considering all his limitations.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is REVERSED and REMANDED for further proceedings.

This, the 30th day of July, 2018.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE